

DECISION



THE COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

FILE: B-186624

DATE: June 17, 1976

MATTER OF: Dynamic International, Inc.

DIGEST:

Protest filed with Air Force on April 8, 1976, requested that IFB's manning requirement be revised and bid opening postponed. Bid opening nevertheless was held on April 16, 1976, and protest denied by agency on same day. Subsequent protest filed with GAO on June 1, 1976, more than 10 days after initial adverse agency action is untimely under Bid Protest Procedures and will not be considered on merits.

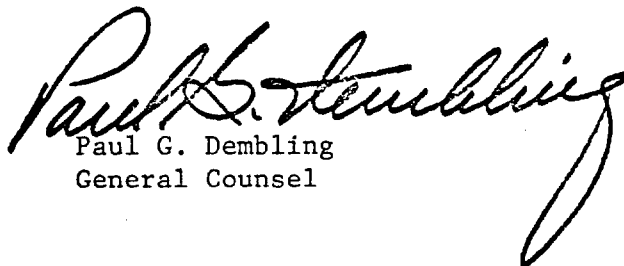
By mailgram dated May 28, 1976, filed June 1, 1976, Dynamic International, Inc. (Dynamic), protested a determination of non-responsiveness of its bid by the contracting agency because of its failure to comply with the manning requirements of invitation for bids (IFB) F02601-76-09027, issued by the Department of the Air Force for mess attendant services at Davis-Monthan Air Force Base, Arizona.

Dynamic has advised us that it initially protested the manning requirements of the IFB to the Air Force on April 8, 1976. Despite Dynamic's protest to the Air Force in which it asked that the IFB be revised and bid opening postponed, bids were opened as scheduled on April 16, 1976. Additionally, the Air Force denied Dynamic's protest on that date.

Where a protest has initially been filed with the contracting agency, section 20.2(a) of our Bid Protest Procedures, 40 Fed. Reg. 17979 (1975), provides that any subsequent protest to our Office must be filed " * * * within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action * * *." Here, initial adverse agency action occurred on April 16, 1976, when the Air Force proceeded with bid opening despite Dynamic's request for revision of the IFB and postponement of bid opening. Additionally, as noted above, the Air Force denied Dynamic's protest on this date. Since Dynamic did not file its

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protest with our Office within 10 working days of initial adverse agency action on April 16, 1976, the protest is untimely and cannot be considered on the merits.


Paul G. Dembling
General Counsel